

PLAINTIFFS' DIRECT AND DEFENDANTS' CROSS DESIGNATION OF DEPOSITION TESTIMONY OF AMIDU ADEKUNLE

(Testifying By Way of Deposition Only)

(Counter-Designations in italicized text)

Deposition December 16, 2005

Plaintiffs' Direct Designations	Defendants' Objections and Counter-Designations	Plaintiffs' Responses to Defendants' Objections and Objections to Counter-Designations	Defendants' Cross Designations	Plaintiffs' Objections and Counter-Designations	Defendants' Responses to Plaintiffs' Objections and Objections to Counter-Designations
	Defendants object generally to reading deposition testimony by Amidu Adekunle on the grounds that Adekunle's testimony is irrelevant, a waste of time, unfairly prejudicial and outside the scope of the Court's order limiting the environmental issues that may be raised in this case.				
4:3-5					
9:13-15					
9:18-20					
9:24-10:1 (to	Defendants object to this	Mr. Mittelstaedt agrees in			

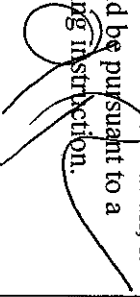
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Ex 2730, pp 1-7	<p>designation as misleading because it relates to Exh. 2731, but plaintiffs purport to show Exh. 2730 to the jury. Exh. 2731 should be introduced with this testimony, not the next designation.</p> <p>Exh. 2730 is irrelevant, a waste of time and hearsay. FRE 401-403, 802. If it comes in at all, it should be pursuant to a limiting instruction.</p>	<p>the previous lines to enter Def's objections as Ex. 2731 in conjunction with Plaintiffs' notice of 30(b)(6) hearing (Ex. 2730). He refers to the "notice of the designation, which incorporates the meet and confer results." In this statement, he essentially identifies both documents.</p> <p>Ex. 2730 is relevant and non-hearsay. Statements of a 30(b)(6) witness that are within the scope of notice are admissions of a party opponent, and the designated portions show that Defs have put deponent forward as a 30(b)(6) witness and demonstrate the</p>			

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10:21 (starting with "they")-23 Ex 2731, pp. 10-12	Exh. 2731 is irrelevant and a waste of time. FRE 401-403. If it comes in at all, it should be pursuant to a limiting instruction. 	Ex. 2731 is relevant to show the scope of Def's 30(b)(6) witness as understood by Defs. Mr. Mittelstaedt's statements identify and characterize the designated section.			
11:25-12:20					
12:23-13:18					
17:10-18:1					
119:22-120:3 Exh. 2732	Defendants object that this testimony and Exh. 2732 violate the Court's order (Dkt. 1210) in which it held	The Court has ruled that evidence of environmental damage is relevant for the state of mind of the Ilaje/CIC			

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	that "the relevance of environmental issues is thin" (p. 2) and that it "is not relevant" "whether in fact Chevron's operations caused the environmental damage plaintiffs witnessed" (p. 3). This testimony and exhibit are also more prejudicial than probative of any material fact. FRE 401-403. Further, the testimony is outside the scope of the 30(b)(6) deposition notice, lacks foundation and personal knowledge. FRE 602, 802. This will be called the "Exh. 2732 Objection."	and the reasonableness of their intentions. Evidence of oil spills -- of which they certainly would have been aware -- relates directly to the conclusions the Ilaje may have drawn about the effects of oil spills. This is not <i>unfairly</i> prejudicial, as FRE 403 requires for exclusion, even if it tends to undermine Defs' case. Also, this evidence falls squarely within the 30(b)(6) notice (See Ex. 2730, p. 6 and Ex. 2731, p. 11). Furthermore, 30(b)(6) witnesses need not testify from personal knowledge. <i>This will be called "Exhibit 2732 Response"</i>			


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120:10-16	Exh. 2732 Objection.	Exh. 2732 Response			
120:19	Exh. 2732 Objection.	Exh. 2732 Response			
121:9-11	Exh. 2732 Objection.	Exh. 2732 Response			
121:14-16	Exh. 2732 Objection.	Exh. 2732 Response			
122:15-17	Exh. 2732 Objection.	Exh. 2732 Response			
123:16-124:13	Exh. 2732 Objection.	Exh. 2732 Response. Testimony is useful as explanation of the meaning of the column headers and entries.			
124:20	Exh. 2732 Objection.	Exh. 2732 Response. Testimony is useful as explanation of the meaning			

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124:22-23	Exh. 2732 Objection.	Exh. 2732 Response. Testimony is useful as explanation of the meaning of the column headers and entries.			
125:1	Exh. 2732 Objection. 	Exh. 2732 Response. Testimony is useful as explanation of the meaning of the column headers and entries.			
125:6 (starting with "what")-22	Exh. 2732 Objection. 125:20-22 Question without answer is irrelevant, waste of time.	Exh. 2732 Response. The phrasing of the question clarifies the meaning of the question in the next designation (126:1-2)			

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126:1-6	Exh. 2732 Objection.	Exh. 2732 Response.			
127:13-19, 127:25	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice. FRE 401-403, 602, 802. Exhibit 2732 Objection. 	Plaintiffs add 127:25 as an additional designation. Testimony is relevant as to reasonableness of CIC/Majes' intentions. 30(b)(6) witnesses need not testify from personal knowledge, and plaintiffs do not purport to use the testimony for his personal knowledge. Testimony falls squarely within the scope of the 30(b)(6) notice.			
128:2	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6)	Testimony of oil spills falls squarely within the scope of the 30(b)(6) notice.			

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	notice. FRE 602, 802. <i>Exh. 2732 Objection.</i>	Exh. 2732 Response.			
128:4-6	<i>Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice. FRE 602, 802.</i> <i>Exh. 2732 Objection.</i>	Testimony about oil spills falls squarely within the 30(b)(6) notice. <i>Exh. 2732 Response.</i>			
128:20-25	<i>Exh. 2732 Objection.</i>	Exh. 2732 Response.			
132:2-11 Exh. 2734	132:9-11: Defendants object that the designation is misleading, confusing and irrelevant. FRE 401-403. Plaintiffs purport to show Exh. 2734 to the jury during this testimony but the	This testimony, taken together with subsequent designations through 136:18, lays foundation for Mr. Mittelstaedt's identification and characterization of Ex. 2734			

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	<p>testimony refers to Exh. 2733.</p> <p>Defendants object that this testimony and Exh. 2733 violate the Court's order (Dkt. 1210) in which it held that "the relevance of environmental issues is thin" (p. 2) and that it "is not relevant" whether in fact Chevron's operations caused the environmental damage Plaintiffs witnessed (p. 3). This testimony and exhibit are also more prejudicial than probative of any material fact. FRE 401-403. This will be called the "Exh.</p>	<p>(see 136:13-18), on behalf of deponent.</p> <p>Ex. 2734 presents reports of dredging – activities of which the Ilae would surely have been aware, which they would have used in forming conclusions about environmental damage and in making plans. Thus this evidence is in keeping with the Court's limiting instructions.</p> <p>This testimony is probative that these operations existed close to and within the knowledge of communities. It is thus not unfairly prejudicial</p> <p><i>This will be called "Exh.</i></p>			

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133:12-14 Exh. 2734	Defendants object that the designation is misleading, confusing and irrelevant. FRE 401-403. Plaintiffs purport to show Exh. 2734 to the jury during this testimony but the testimony refers to Exh. 2733. Moreover, colloquy of counsel is irrelevant and a waste of time. <i>Exh. 2734 Objection.</i>	As described in plaintiffs' response to Defs' objection to 132:2-11, this testimony lays the foundation for Mr. Mittelstaedt's identification and characterization of Ex. 2734, along with the following two designations.			
136:5-8 Exh. 2734	Defendants object that neither plaintiffs' counsel nor defendants' counsel is competent to give testimony	Same as plaintiffs' response to Defs' objection to 133:12-14 Exh. 2734 Response.			

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	because neither was sworn. FRE 603. Exh. 2734 Objection.	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice. FRE 802, 802.			
136:15-18 Exh. 2734	Defendants object that neither plaintiffs' counsel nor defendants' counsel is competent to give testimony because neither was sworn. FRE 603. Exh. 2734 Objection.	Mr. Mittelstaedt has identified the document, characterized it, and represented himself as being in a position to provide more information about it in his capacity as representative of the deponent. Deponent has not disavowed this. His statement should be			

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		regarded as an admission by the 30(b)(6) witness. As an admission of Chevron, the statement "It's the duration of the dredging for those various areas, and the duration is indicated under the months and the lines" should be regarded as authentication of the document. Exh. 2734 Response.			
137:12-17	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice; irrelevant and prejudicial. FRP 401-403, 602, 802.	30(b)(6) witnesses need not testify from personal knowledge. The topic of erosion causeby CNL activities falls squarely within the scope of the 30(b)(6) notice, and it is not			

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137:20	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice; irrelevant and prejudicial. <i>RRB 401-403, 602, 802.</i>	30(b)(6) witnesses need not testify from personal knowledge. The topic of erosion causeby CNL activities falls squarely within the scope of the 30(b)(6) notice, and it is not unfairly prejudicial.			
			143:19-144:5	143:24-144:5 (starting at "At the time") is inadmissible in light of the Court's ruling on evidence relating to the jaw-llaje conflict. <i>OK</i>	The Court has made no ruling that evidence relating to the jaw-llaje conflict is inadmissible. In fact, the Court has stated that to the extent that it is relevant to any of plaintiffs' claims, then defendants are permitted to enter the evidence. In this depo read,

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144:15-17	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice; irrelevant and prejudicial. FRIL 401-403, 602, 802; see page 140:9-18 for standing objection stipulation.	30(b)(6) witnesses need not testify from personal knowledge. This testimony falls squarely within the scope of the 30(b)(6) notice (See Ex. 2731, 11:17-19). Probative of Chevron's state of mind and not unfairly prejudicial.			plaintiffs are attempting to portray a misleading and prejudicial picture of CNL's environmental actions and investigations by selectively editing out the facts they do not like.
144:20	Lacks foundation and personal knowledge; outside the scope of the 30(b)(6)	30(b)(6) witnesses need not testify from personal knowledge. This testimony			

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	notice; irrelevant and prejudicial. FRE 401-403, 602, 802; <i>see</i> page 140:9-18 for standing objection stipulation.	falls squarely within the scope of the 30(b)(6) notice (See Ex. 2731, 11:17-19). Probative of Chevron's state of mind and not unfairly prejudicial.			
	Designation is misleading, because surrounding testimony explains that CNL had commissioned consultants to conduct such studies, but they were aborted due to ethnic conflict in the region. If plaintiffs are allowed to introduce this evidence, then defendants should be permitted to introduce evidence of Ijaw/IlaJe crisis.	Not misleading, because this testimony is relevant to Chevron's state of mind during the Parabe protest, and post-Parabe studies do not bear on this issue.			

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			144:22-24	Unresponsive. Unclear if deponent is referring to studies commissioned before May 1998. To the extent deponent refers to studies commissioned pre-May 1998, irrelevant because the results were unavailable by the time of the Parabe protest.	Responsive. See 146:4-9. In this depo read, plaintiffs are attempting to portray a misleading and prejudicial picture of CNL's environmental actions and investigations by selectively editing out the facts they do not like.
			145:3-25	Unresponsive. Unclear if deponent is referring to studies commissioned before May 1998. To the extent deponent refers to studies commissioned pre-May 1998, irrelevant because the results were unavailable by the time of	Responsive. See 146:4-9. In this depo read, plaintiffs are attempting to portray a misleading and prejudicial picture of CNL's environmental actions and investigations by selectively editing out the facts they do not like.

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204:8-19 Exh. 2735	Testimony relating to the Benin River field development project and Exh. 2735 is irrelevant and a waste of time. This project is in Ijaw and Itsekiri land, right near Opa and Ikenyan, not near Parabe for plaintiffs' communities. Plaintiffs' counsel acknowledged that the Benin River project is in Ijaw land. See Adekunle Dep., p. 193:22-194:1 ("Q: Now I'm going to shift gears and try and ask you the same questions for the Ijaw. And when I talk about 'Ijaw lands,' you'll understand I'm talking	Relevant as to notice to Chevron of the reasonableness of Ilaje intentions, since the report tells about the environmental effects of dredging in mangrove swamps. Evidence is probative of Chevron's knowledge of the reasonableness of community protests in dredging areas, and not unfairly prejudicial. <i>This will be called "Exh. 2735 response"</i>		the Parabe protest.	

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	about Dibi and the Benin fields? You understand that, sir? A: Yes, sir"). Thus, this testimony and exhibit are irrelevant to the Ilaje plaintiffs' motivation for engaging in hostage-taking and kidnapping. Further, this testimony and Exh. 2735 violate the Court's order (Dkt. 1210) in which it held that "the relevance of environmental issues is thin." This testimony and exhibit are also more prejudicial than probative of any material fact. FRE 401-403. (This objection will be called the "Exh. 2735 Objection.").				

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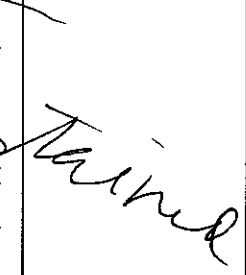
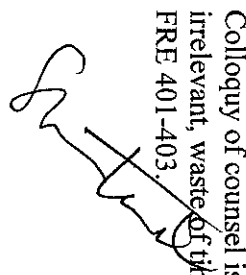
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211:10-11	Exh. 2735 Objection .	Exh. 2735 Response.			
211:14-15	Exh. 2735 Objection .	Exh. 2735 Response.			
211:18-212:5; 212:7-11	Exh. 2735 Objection . 212:1-11: Whether deponent agrees or disagrees with statement is irrelevant and a waste of time. Lacks foundation and personal knowledge; outside the scope of the 30(b)(6) notice. FRE 401-403, 602, 802; see page 140:9-18 for standing objection stipulation.	Exh. 2735 Response. 30(b)(6) testimony constitutes admissions of the defendant, so whether the deponent agrees is relevant to whether defendant adopts the statement in question. To the extent that deponent has no knowledge, plaintiffs should be entitled to a presumption that the proposition is true, since Defs. held out deponent as an expert.			

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	<i>Exh. 2735</i>  Objection.	30(b)(6) witnesses need not testify from personal knowledge. This testimony is squarely within the scope of the 30(b)(6) notice (See Ex. 2731, 11:17-19)			
212:16-19	Exh. 2735 Objection.	Exh. 2735 Response.			
212:21-213:13	Exh. 2735 Objection.	Exh. 2735 Response.			
			214:4-6		
214:21 (beginning with "I've")-215:9 (ending with "paragraph")	Colloquy of counsel is irrelevant, waste of time. FRE 401-403. 	Colloquy indicates the Defs. have agreed to the identification of Ex. 2736. Unless Def. will agree not to contest admission of Ex. 2736, this is relevant to authentication.			

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Exh. 2736					
215:18 and Exhibit 5662 (excerpt with C74964-66, C74972, & C74985-88; Exhibit 5684 (excerpt with C75019, C75043, C75063); and Exhibit 5682 (excerpt with C108038, 108051, 108074, and 108093)	Colloquy of counsel is irrelevant and a waste of time. FRE 401-403. Exh. 5662: Defendants object to Exh. 5662 because the Benin River field development project is irrelevant and a waste of time. This project is in Ijaw and Itsekiri land, right near Opia and Ikenyan. It is not near Parabe or plaintiffs' communities. Plaintiffs' counsel acknowledged that the Benin River project is in Ijaw land. See Adekunle Dep., p. 193:22-194:1 ("Q: Now I'm going to shift	Colloquy indicates the Defs. have agreed to the identification of Ex. 5662, 5684, and 5682. Unless Def. will agree not to contest admission of Ex. 2736, this is relevant to authentication. Ex. 5662: Same as Exh. 2735 Response, but with reference to Ex. 5662. Ex. 5684, 5682: Deponent authored these studies, and Defs. stipulated that deponent did not dispute their truthfulness. This is sufficient for authentication. Also, findings relating to			

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	gears and try and ask you the same questions for the Ijaw. And when I talk about "Ijaw lands," you'll understand I'm talking about Dibi and the Benin fields? You understand that, sir? A: Yes, sir."). Thus, this exhibit is irrelevant to the Ijaw plaintiffs' motivation for engaging in hostage-taking and kidnapping. Further, this exhibit violates the Court's order (Dkt. 1210) in which it held that "the relevance of environmental issues is thin." This exhibit is also more prejudicial than probative of any material	exacerbation of sedimentation due to canal dredging (See Ex. 5682, Bates C108051), accelerated erosion due to Awoye canal "break-out" (See Ex. 5682, Bates 108074), and acknowledgment of concern over erosion in the fragile Delta region (Ex. 5684, Bates C075063) are relevant to the notice to Chevron of reasonableness of Ijaw intentions. Probative of Ijaw intentions, not unfairly prejudicial.			

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	fact. FRE 401-403.				
	<p>Exh. 5684, 5682: Defendants object that the designated testimony does not authenticate or lay a foundation for these exhibits. FRE 901. Further, these exhibits violate the Court's order (Dkt. 1210) in which it held that "the relevance of environmental issues is find" (p. 2) and that it "is not relevant" "whether in fact Chevron's operations caused the environmental damage plaintiffs witnessed" (p. 3). These exhibits are also more prejudicial than probative of any material fact. FRE 401-</p>				

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403.					